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MILWAUKIE '88!

CITY OF MILWAUKIE
CITY COUNCIL MEETING
DECEMBER 6, 1988

The one thousand five hundred and sixty-fifth meeting of the Milwaukie City Council was called to order at 7:00 p.m. in the Council Chambers with the following Councilmembers present:

Roger A. Hall,
Mayor
Craig Lomnicki

William Fitzgerald
Chere' Sandusky
Mike Richmond

Also present:

Sandra Miller,
Assistant to the
City Manager
Tim Ramis,
City Attorney
Jerri Widner,
Finance Director

Dick Bailey,
Public Works Director
Bill Adams,
Community Development Director
Dave Krogh,
Assistant Planner
Pat DuVal,
Executive Secretary

Jim Vistika, Chairman of the Friends of the Milwaukie Center, discussed services and activities available at the Center.

Lt. Col. O'Neal, representing the Milwaukie Civil Air Patrol, described the cadet program and announced December 1 - 12 as Civil Air Patrol Week.

Brooks Washburne informed the Council he had delivered a covered wagon to the City at the Milwaukie Center and that he would have it removed.

Councilmember Lomnicki read a commendation from Michael Shrunk, District Attorney for Multnomah County, to Chief Ron Goodpaster and Detective James McDaniel for their contribution to the Regional Organized Crime Narcotics Task Force in a recent drug seizure.

OTHER BUSINESS

Audit Report by John Dethman of Coopers & Lybrand - Jerri Widner, Finance Director, introduced John Dethman and Chris Harris of Coopers & Lybrand. Dethman, a partner of the firm, addressed the audit report. He discussed governmental operations of the City of Milwaukie with comparable Coopers & Lybrand clients in the area. It was the opinion in the financial statements that the City operated in accordance with General Accounting Principles, but the statement was qualified because of lack of adequate fixed asset records. Harris, manager of the audit, addressed the management letter. He commented on the need to implement a long-term data processing plan; to formalize a data processing user involvement program; to document and cross-train other users in the event of staffing changes; to complete an inventory of fixed assets; and to manually test all internally generated computer documents.

Mayor Hall asked the time and cost involved in a fixed asset inventory. Widner said the City was evaluating bids for an appraisal to be prepared in time for the next audit.

PUBLIC HEARING

Consideration of Rezone Request from R-10 to R-2 (ZC-88-04)

The public hearing was opened at 7:33 p.m. There were no conflicts of interest, ex parte contacts, or challenges.

Dave Krogh, Assistant Planner, presented the staff report requesting approval of a rezone as recommended by the Planning Commission allowing apartment development under the ownership of Waverley Greens Apartments. City Council reviewed the same request in May, 1987, but the Applicant was asked to provide more information addressing the criteria. Krogh explained lots 8 and 9 were already zoned R-2, and approval of the request to rezone lot 11 to R-2 of Waverley Heights would permit development of a total of 168 units. Krogh stated a petition in opposition to the Plan Amendment had been received requesting postponement of a decision until completion of the Periodic Review. He indicated City Attorney Ramis had advised the Planning Commission and staff that deferral beyond 120 days of a zone change decision which did not specifically violate the City's Comprehensive Plan would be in violation of state statutes. After holding a public hearing on October 25, 1988, the Planning Commission found that the applicant had met application requirements and Comprehensive Plan conformity and had adequately addressed zoning map amendment criteria. The Commission recommended approval of the rezone request and asked that two conditions be required: (1) implement and submit to the City staff a traffic study of Lava Drive intersecting with Waverly Court and 17th Avenue, and (2) install a storm sewer system.

Krogh said City staff concurred with the findings and conclusions of the Planning Commission and recommended adoption.

Applicant's Testimony

William Wyse, 3332 SW Fairmont, stated the Waverley Greens Apartment was a partnership, composed of Ann Shipman, Alvin D. Wert, and the Wyse Family Partnership. The Wyse Family Partnership had acquired the property in 1971. Wyse discussed the history of the property including the fence agreement and the "ridgeline policy" which he did not find applicable to his property and his application. The partnership had developed 18 acres and the final 11 acres under consideration at this hearing would complete the development. Wyse said in order to seek the rezone, Waverley Greens had prepared reports on storm drainage possibilities and submitted a site plan addressing neighborhood concerns such as traffic, appearance, and loss of trees.

Bob Moreland, Moreland, Christopher & Miles Architects, 1022 SW Salmon, said the design concept was to minimize the impact on nearby single-family residences and maximize the view of all the apartments in the proposed development. He said there would be 13 articulated buildings to minimize the large facade effect with three large open spaces retained in the design for buffer. Moreland said the tree survey had been completed and most of the major trees would be retained and therefore the request exceeded minimum requirements. He said tree massing would obscure the views from the golf

course and single family residences. **Moreland** pointed out that structures would cover only 19% of the land in comparison to the 45% allowable.

Chuck Harper, David Evans & Associates, Inc., Engineers, 2626 SW Corbett Ave., said his firm had prepared an analysis of the storm drainage system. He said the drainage could be routed along three basic routes to either the Willamette River or Johnson Creek. The route to Johnson Creek along Lava Drive to River Road was within an existing public right-of-way, and the other alternatives would require obtaining permission to route a drainage line across private property. **Mayor Hall** asked if property owners had been contacted. **Wyse** said that the Comp Plan required only that feasibility existed when requesting a zone change.

Robert Bernstein, Traffic Planning Engineer, 507 18th Avenue East, Seattle, Washington, 98112, said he had done work previously on the McLoughlin Corridor and the neighborhood traffic in Sellwood. He said he had reviewed the available material and viewed the site. **Bernstein** said most of the issues had already been addressed and solutions were simple and straightforward. He said the proposed development would generate only about 100 trips per day over the amount generated by a single-family development.

Steve Pfeiffer, 900 SW Fifth, Portland, spoke regarding compliance with the policies set forth in the Comprehensive Plan. He said his client had provided a detailed site plan and had provided feasible solutions to the traffic and storm drainage questions. **Pfeiffer** said the rezone would bring the site into conformance with the Comprehensive Plan designation of high density residential. He noted that the site's unusual characteristics would require a Greenway Review, a Transitional Review, and an Environmental Review. All of these reviews would require a public hearing and if necessary the basic site plan could be altered. **Pfeiffer** summarized the support of the Planning Commission and Staff in its decision based on the criteria of the Comprehensive Plan. He said this site provided one of the few sites in the City with availability of high density residential, proximity to the downtown area, and retention of a significant amount of vegetation.

Testimony in Support

Dutchie Hezelton, 10630 Waverley Ct., #307, said she had lived in Waverley Greens for 19 years. She indicated that although this was a high density designation, noise, litter, and traffic were minimal because most of the residents were retired or semi-retired. **Hezelton** indicated the complex management was efficient in its screening of potential renters and was observant of renters' behavior. She added the landscaping between the sections of the development was well done.

Donald Malmberg, Waverley Hall #104, said he supported the efforts of a landowner upgrading his property. **Malmberg** said he has been satisfied with the management of the complex and concluded that steps would be taken in a responsible manner to mitigate any potential noise, traffic, drainage, or security problems.

Neutral Testimony

Mart Hughes, 3006 SE Washington, urged that any rezone decision be withheld until the EC Analysis and the Periodic Review was completed. He also asked why the Planning Commission minutes of the public hearing on Waverley were not

in the staff report. Krogh obtained a copy of the minutes and presented it to the Council.

Testimony in Opposition

Gloria Stone, 10230 SE Cambridge, requested a denial of a zone change in order to preserve natural resources and open spaces. Stone said that a neighborhood group had petitioned for a postponement of any decision until the Periodic Review was complete and adopted. She indicated the proposed development would negatively impact the homeowners, cause drainage problems, and affect solar access of nearby residences.

Al Jaeger, 12350 SE 31st Place, recommended denial of the zone change until the Comprehensive Plan Review was complete.

Roy Rose, 10200 SE Cambridge, urged preservation of the historical neighborhood integrity.

Carrell Bradley, 139 NE Lincoln, Hillsboro, 97123, spoke for the membership and Board of the Waverley Country Club. He urged postponement of a decision until the redesignation petition by the neighbors had been considered. Bradley urged Council to regard the historical value of the clubhouse and golf course. He expressed concern that the zone change to R-2 would destroy the Greenway project, create traffic, drainage, and vandalism problems, and conflict with the Ridgeline Policy that had been in effect for 20 years.

John Wilson, 1505 SE Oxford, said the application was neither equitable nor justifiable. He indicated that recent development and landscaping of Waverley Greens was not attractive.

Ron White, 10240 SE Cambridge Lane, said the R-10 designation was not an error and cited a memo from Jerry Hutchinson, a member of the Comprehensive Plan Review Committee, recommending an R-10 designation for lot 8.

Linda Rose, 10200 SE Cambridge, said she felt the current complex was unattractive.

Staff Comments

Bill Adams, Community Development Director, said an EC analysis was required for a Goal 5 update but not required for individual applications.

Mayor Hall asked how designation as a natural site would be consistent with this type of development. Adams replied the application was consistent with the City's land use plan for that area. Ramis responded there are two opportunities in the application process to consider the natural site issue. The first time, which has been done, was application of a particular land use designation to the property. The second opportunity to address the natural elements of the site would be in the future during the application of the ordinance and criteria to the development. Ramis advised Council there was no criteria to judge the natural site issue at this time, but ordinance compliance could be specifically measured at the time of application. He said there were certain constraints on the City's authority to defer decision making on Comprehensive Plan amendment and Zone Change requests until completion of the Periodic Review. State statutes require that a city process

an application within 120 days. Ramis added that since the zone change was in compliance with the Comprehensive Plan, the City would probably have difficulty defending any deferral of the request.

Adams said there would be special review requirements by the City regarding the natural area designation, but development rights and reasonable use of the land do exist for the property owner. He also stated that the Metro housing rule did not apply at this particular time.

Councilmember Richmond asked why the site had not originally been zoned R-2. Adams replied that the R-10 designation resulted from the absence of public facilities. He added that the Planning Commission did not consider the "ridgeline policy" relevant. Ramis said it is assumed that circumstances will arise in which criteria must be applied to resolve conflicts between the code and the Comprehensive Plan.

Councilmember Fitzgerald asked why the "ridgeline policy" did not apply. Adams replied that the "ridgeline policy" was superseded by the Comprehensive Plan. Ramis said if Council felt there was an error in the Comprehensive Plan, the plan would have to be changed. The "ridgeline policy" was not part of the ICDC-approved document and was therefore not defensible.

Applicant's Rebuttal

William Wyse addressed the issues brought up in the opposing testimony. He said the proposed Waverley Greens apartments would be attractive to some of the country club membership. He added that certain tree plantings done by the country club seemed contrary to its concern with maintaining the Greenway and significant natural area. Wyse said the "ridgeline policy" was an issue that did not apply to the Comprehensive Plan and the application. He stated the open space of the area would be better preserved by multi-family dwellings rather than by an R-10 subdivision. He said the basic concept of the plan would not change, but variations might occur during the application process. Wyse said market studies showed that the area would support apartments renting for \$1000 - \$1500 per month.

Mayor Hall asked for a comment on the solar access question raised by Ms. Stone. Moreland replied that the shadowline had not been calculated, but he believed that any limitation to solar access would be minimal. Mayor Hall asked about the buffer zone on the west, and Moreland replied that the first building would be 90 feet from the property line.

Steve Pfeiffer said the conditional use process could require no reduction in open space, but there would be three additional opportunities in the process to shift any buildings. A transition area would be required between high and low density residential areas. He stated that any zone in the natural and greenway area would be conditional usage, and consideration of the Greenway issue would go contrary to City ordinance. Pfeiffer stated that although it had been implied by petitioners that Wyse was proceeding hastily, the development process was logically continuing. He added the petition for redesignation was a result of the Wyse application. He said that justified concerns would be subsequently address in the process. Pfeiffer summed up by saying that ample evidence was present that criteria had been met.

The public hearing was closed at 10:20 p.m.

Council Discussion

Councilmember Richmond asked if it were possible for lot 11 to return to an R-10 designation if the applicant did not meet conditions. Ramis said this would not be advisable.

Councilmember Lomnicki said he was concerned with the location of an R-2 zone adjacent to an R-10 zone. He indicated his concern that a 4-story structure was too high. Ramis said the decision regarding the number of stories versus open space would be considered at a later time. Denial of the application would have to be based on the availability of services and if the construction were physically possible.

Mayor Hall said he felt the applicant's case had been proven.

Councilmember Richmond said he felt the land was valuable from a natural resource point of view, but he did not feel the application could be denied on that basis.

Councilmember Sandusky said she did not feel there was much latitude in this decision.

Councilmember Richmond asked if there were a problem with the Comprehensive Plan. Ramis replied that this question would have to be considered at a different time. Councilmember Sandusky said that the decision before Council tonight could not be based on a suspicion that the Comprehensive Plan was flawed.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Sandusky to amend Section 2. Conditions of Approval to read "Failure to complete conditions 1. and 2. below within three years would invalidate this action, and the zoning designation shall remain the same as existed prior to this approval." Motion passed 4 - 1 with Councilmember Richmond voting against.

Ramis suggested Council allow the prevailing party to present additional findings. It was the consensus of Council to direct staff to prepare the amended ordinance with additional findings and present the ordinance for the first reading at the January 3, 1989 meeting.

OTHER BUSINESS

Status Report on Well Contamination - Dick Bailey, Public Works Director, introduced James Helton of Cunningham and Associates. Helton reported to Council the water treatment options with their costs and the alternate supply options. Councilmember Fitzgerald was concerned that a treatment system might become obsolete if other chemicals were found in the City's ground water supply. Councilmember Richmond asked if there were any regulations regarding the release of chemicals into the air from treatment towers. Helton replied that DEQ had no regulations concerning this. Councilmember Richmond asked if lower contamination levels in the wells signified that the chemicals were leaving the system. Helton responded this might only signify that the

contamination was not being drawn into the system by use. Councilmember Tomnicki asked how many aeration towers might be required to treat the water, and Helton said two would probably be needed. He also requested that wells 6 and 8 be pumped to find out if contaminants travelled from one location to another. He also requested permission to begin preliminary design on the packed aeration towers. It was the consensus of Council to direct staff to implement the recommendations in the staff report which included pumping wells 6 and 8 and beginning preliminary design on the packed aeration towers.

Meeting of Local Contract Review Board - Authorization to Let Bids for Repainting of Elevated Water Tank - Dick Bailey explained to Council the cost of the service would likely exceed \$15,000 and required the formal bid process and approval of the Local Contract Review Board. It was moved by Councilmember Fitzgerald and seconded by Councilmember Sandusky to authorize the letting of bids for recoating the water tank at 40th and Harvey. Motion passed 5 - 0.

Information Items

Mayor Hall asked the other Councilmembers to submit names for membership in the Clackamas Watershed Committee at the next Council meeting.

Staff was directed to schedule a work session with the Parks and Recreation Commission to discuss the summer recreation program in January.

It was the consensus of Council to name the City Manager as the Clackamas County Clearinghouse contact for the City of Milwaukie.

CONSENT AGENDA

It was moved by Councilmember Sandusky and seconded by Councilmember Tomnicki to adopt the Consent Agenda which consisted of the November 15, 1988, City Council Meeting.

The meeting was adjourned at 11:45 p.m.

Patricia A. Bullard
Executive Secretary

